

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LIEM HIEU LE,

No. C 08-727 SI

Plaintiff,

**ORDER GRANTING DEFENDANT'S  
MOTION TO DISMISS WITH LEAVE  
TO AMEND**

v.

CITY OF PITTSBURG,

Defendant.

Defendant's motion to dismiss the complaint is scheduled for a hearing on July 11, 2008. Pursuant to Civil Local Rule 7-1(b), the Court determines that the matter is appropriate for resolution without oral argument, and VACATES the hearing. For the reasons set forth below, the Court GRANTS defendant's motion to dismiss the complaint with leave to amend. If plaintiff wishes to amend the complaint, plaintiff must file an amended complaint no later than **July 18, 2008**.

**DISCUSSION**

Plaintiff filed a one page complaint alleging that "[t]he discrimination, and the abuse of power, and the negligence of employees of defendant City of Pittsburg caused the foreclosure of plaintiff's properties, known as 430 E. 9th St., 415 E. 9th St. and 1160 York St. in Pittsburg, California." Complaint ¶ 4. The complaint does not contain any other factual allegations regarding the circumstances surrounding the foreclosures, nor does the complaint elaborate on the alleged discrimination. The complaint does not allege a claim under any federal or state law, and seeks damages in the amount of \$2,000,000.

Defendant moves to dismiss the complaint or for a more definite statement. Defendant correctly

1 argues that the complaint does not identify a basis for this Court's jurisdiction. The Court advises  
2 plaintiff that in order to file a lawsuit in federal court, there must be a basis for federal court jurisdiction,  
3 for example if the plaintiff is alleging a claim under a federal statute.

4 Similarly, the complaint must contain factual allegations supporting plaintiff's claims; it is  
5 insufficient simply to allege "discrimination" without any supporting facts. Although somewhat  
6 unclear, it appears from plaintiff's opposition that his claim(s) relate to inspectors who issued code  
7 violations on plaintiff's properties. The Court informs plaintiff that these facts on their own do not  
8 appear to give rise to a claim under federal law. In addition, plaintiff is advised that a local government  
9 may not be sued based on the acts of an employee; instead, in order to bring a claim against a public  
10 entity such as the City of Pittsburg, plaintiff must allege that the employee acted pursuant to an official  
11 policy or custom. *See Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 694 (1978).

### 12 13 CONCLUSION

14 For the foregoing reasons, the Court GRANTS defendant's motion to dismiss the complaint with  
15 leave to amend. *See Lopez v. Smith*, 203 F.3d 1122, 1128 (9th Cir. 2000). (Docket No. 4). If plaintiff  
16 wishes to file an amended complaint, the complaint shall (1) state the basis for federal jurisdiction; (2)  
17 specifically identify the claims that plaintiff is asserting (for example, if plaintiff is suing under a federal  
18 or state statute, the complaint shall identify that statute); (3) state, as clearly as possible, the facts giving  
19 rise to the complaint, including the dates upon which the events occurred; and (4) state the relief that  
20 plaintiff seeks. **Any amended complaint must be filed by July 18, 2008.**<sup>1</sup>

21  
22 **IT IS SO ORDERED.**

23 Dated: July 9, 2008

24   
25 \_\_\_\_\_  
26 SUSAN ILLSTON  
27 United States District Judge

28 <sup>1</sup> If plaintiff amends the complaint and cures the deficiencies described in this order, defendant may renew its arguments related to plaintiff's bankruptcy filing.

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

LIEM HIEU LE,

Plaintiff,

v.

CITY OF PITTSBURG et al,

Defendant.

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Case Number: CV08-00727 SI

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 9, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Liem Hieu Le  
713 Caskey Street  
Bay Point, CA 94565

Dated: July 9, 2008

Richard W. Wieking, Clerk  
By: Tracy Sutton, Deputy Clerk

